



Roll Call Number

Agenda Item Number

21-1642

8

Date November 1, 2021

APPROVING PROFESSIONAL SERVICES AGREEMENT (PSA) WITH OLSSON, INC. FOR DESIGN AND CONSTRUCTION PHASE SERVICES FOR THE WATROUS AVENUE IMPROVEMENT PROJECT (S.W. 56TH TO S.W. 61ST), NOT TO EXCEED \$130,185

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA: That the Professional Services Agreement between the City of Des Moines and Olsson, Inc., Ryan Beckman, President, 601 P Street, Suite 200, Lincoln, Nebraska, 68508, for a total cost not to exceed \$130,185, to provide professional services for the Watrous Avenue Improvement Project (S.W. 56th to S.W. 61st), a copy of which is on file in the office of the City Clerk, is hereby approved as to form and content.

BE IT FURTHER RESOLVED: That the Mayor and City Clerk are hereby authorized and directed to execute and attest, respectively, said Professional Services Agreement for and on behalf of the City of Des Moines, Iowa.

(Council Letter Number 21-479 attached) Activity ID 01-2021-025

Moved by Gatto to adopt.

FORM APPROVED: s/Kathleen Vanderpool Kathleen Vanderpool Deputy City Attorney

Funding Source: 2021-2022 CIP, Page 106, Roadway Rehabilitation – Residential, ST013, GO Bonds

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, GRAY, MANDELBAUM, VOSS, WESTERGAARD, and TOTAL.

CERTIFICATE

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED Linda Westergaard Mayor

P. Kay Cmelik City Clerk

MAYOR PRO TEM

CITY OF DES MOINES
AGREEMENT FOR PROFESSIONAL SERVICES: HOURLY
WATROUS AVENUE IMPROVEMENT PROJECT (S.W. 56TH - S.W. 61ST)
Activity ID 01-2021-025

THIS AGREEMENT for Professional Services (hereinafter "Agreement") is made by and between the City of Des Moines, Iowa, a municipal corporation organized and existing pursuant to the laws of the State of Iowa, hereinafter referred to as the "City" and Olsson, Inc., Ryan Beckman, President, 601 P Street, Ste. 200, Lincoln, NE 68508, hereinafter referred to as the "Consultant", being a corporation organized and existing under the laws of the State of Nebraska and being duly authorized to do business in the State of Iowa. This Agreement is not valid until signed by the City representative set out below.

WHEREAS, the City is desirous of obtaining professional services in connection with Watrous Avenue Improvement Project (S.W. 56th - S.W. 61st) (hereinafter the "Project"); and

WHEREAS, the Consultant is desirous of performing the professional services for the City in connection with Watrous Avenue Improvement Project (S.W. 56th - S.W. 61st).

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

SECTION 1 - GENERAL

- A. PERFORMANCE:** The performance of the Consultant is limited to the scope of services outlined as hereinafter set forth.
- B. CONSULTANT'S REPRESENTATIONS:** The Consultant represents and agrees that:
1. Consultant is an experienced licensed architectural and/or engineering firm having the ability and skill necessary to perform all the services required of it under this Agreement in connection with the design of the Project having the scope and complexity of the Project contemplated herein; and
 2. Consultant has the capabilities and resources necessary to perform its obligations hereunder; and
 3. Consultant is familiar with all current local, state and federal laws, rules and regulations which are applicable to the design and construction of the Project (including but not limited to city ordinances and building codes of city, state and federal authorities that are applicable to the Project) and that all drawings, plans, specifications and other documents prepared by the Consultant must be prepared in accordance with, and comply with all applicable laws, rules and regulations; and
 4. All plans, drawings, specifications and other documents prepared pursuant to this Agreement must be complete and functional for the purposes intended, and that the Project will be structurally sound and a complete and properly functioning facility suitable for the purposes for which it is intended; and
 5. That all services provided by the Consultant shall be performed in a timely manner and shall be performed with that degree of care, skill, and diligence ordinarily exercised under similar conditions and in the performance of projects of a similar nature to the services contemplated by this Agreement by competent members of the architectural and engineering professions. Consultant represents that it has the experience and expertise necessary to provide design and engineering services to result in a functional, operating Project. Consultant shall be responsible for all services provided under this Agreement regardless of whether such services are provided by Consultant or by any subconsultant hired by Consultant.
 6. The Consultant is responsible for the professional quality, technical accuracy, timely completion and the coordination of all plans, studies, designs, drawings, specifications, reports, and other services furnished by Consultant for the City under this Agreement regardless of whether such drawings and documents are prepared by the Consultant or by the Consultant's subconsultant's. The Consultant is responsible for coordination and internal checking of all design documents and for the accuracy of all information contained therein, as fully as if each document were prepared by the Consultant. The Consultant shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its plans, studies, designs, drawings, specifications, reports, or other services.

- C. CITY'S' AUTHORIZED REPRESENTATIVE:** The Des Moines City Manager is the liaison officer between the Des Moines City Council and the Consultant. The City Manager has delegated the administration, general supervision, and approval authority under this agreement to the City Engineer, hereinafter City Engineer. The City Engineer is the City's representative for administration of the services to be performed under this Agreement, and shall receive all communications and information, arrange such conferences as deemed necessary, secure, and obtain all comments, approvals, and notices to proceed from the City, and transmit such comments, approvals, and notices to proceed to the Consultant. The services to be performed by the Consultant under this Agreement shall at all times be subject to the general oversight and administrative approval of the City Engineer.
- D. CONFERENCES:** As the performance of this Agreement progresses, conferences shall be held from time to time at a mutually convenient location at the request of the City Engineer. The Consultant shall prepare and present such information as may be pertinent or necessary to enable the City Engineer to pass critical judgment on the features and progress of services under this Agreement. The Consultant shall make such changes, amendments, or revisions in the detail of any phase of services under this Agreement as may be required by the City Engineer. If alternates or alternatives are to be considered, the City Engineer shall have the right of selection. The Consultant shall, at the request of the City Engineer, appear personally, prepare and present such documents and explanations to the Des Moines City Council as may be requested.
- E. INSURANCE AND INDEMNIFICATION:** The Consultant shall purchase and maintain insurance in accordance with the insurance requirements set forth in Attachment 1 to protect the Consultant and City throughout the duration of this Agreement. The Consultant shall not commit any act which shall invalidate any policy of insurance. The Consultant shall defend, indemnify and hold harmless the City in accordance with the indemnification requirements set forth in Attachment 1. The Consultant shall be subject to all terms and provisions set forth in Attachment 1 and the exhibits thereto.
- F. PROGRESS REPORTS:** The Consultant shall furnish the City with written monthly progress reports, which shall indicate the percentage of work completed, together with a description of the work in progress under this Agreement. The Consultant shall also, upon request of the City Engineer, furnish the necessary documentation to verify the reported progress.
- G. ACCESS TO CONSULTANT'S RECORDS:** The Consultant shall maintain all books, documents, papers, accounting records and other evidence pertaining to cost incurred in performing work covered by this contract. The City Engineer shall have access to said documents and evidence for the purpose of inspection, audit and copying during normal business hours. All said documents shall be retained for three years from the date of final payment under the contract.
- H. OWNERSHIP OF DOCUMENTS:** Consultant agrees that the City shall become the sole and exclusive owner of all designs, design plans, images, drawings, models, survey notes, reports, specifications, studies, records and other data and documents, in whatever form and whatever stage of design, prepared under this Agreement ("the Design Documents"). Consultant hereby irrevocably assigns, transfers and conveys to the City all right, title and interest in and to the Design Documents and all intellectual property rights and proprietary rights arising out of the Design Documents, including copyrights, patents, trademarks, and derivative works and interests therein or related thereto. Consultant warrants to the City that the Design Documents will be free from any claims or encumbrance of intellectual property or proprietary rights of Consultant or any third party, including any employee, agent, contractor, sub-consultant, subcontractor, subsidiary or affiliate of Consultant and Consultant will indemnify the City for any such claims or encumbrances pursuant to Attachment 1. Upon completion or termination of this Agreement, Consultant will immediately turn over to City all Design Documents not previously delivered to City.

To the extent any of Consultant's rights in the Design Documents are not subject to assignment or transfer hereunder, including any moral rights and any rights of attribution and of integrity, Consultant hereby irrevocably and unconditionally waives such rights and enforcement thereof and agrees not to challenge the City's right in and to the Design Documents.

The City owns the Design Documents, but the City agrees not to re-use the Design Documents developed and provided by the Consultant for this Project, in the construction of another project, without the prior approval of the Consultant, except that the City may re-use such Design Documents, without the prior approval of the Consultant, as long as the City shall indemnify the Consultant against any claim for negligent design relating to its re-use of said Design Documents.

I. TERMINATION: If the City, in its sole discretion, should desire to suspend or terminate the services of the Consultant under this Agreement, such suspension or termination may be effected by the City giving the Consultant written notice. Payment shall be made by the City for services rendered by the Consultant to date of termination as provided in Section 3, B.

J. CHANGES IN SCOPE OF SERVICES:

1. Extra Work: Authorization for extra work shall be evidenced by the City and Consultant in writing, in the form of a Supplemental Agreement. At the discretion of the City, work not called out in the Agreement or which is considered to be beyond the extent of a reasonable exploration of alternates and/or "trial and error" solutions in design procedure may be classed as extra work. Extra work will usually be of limited extent and may consist of, but is not necessarily limited to:
 - a. The introduction of new items of work beyond the stated or implied scope of the Agreement.
 - b. Redesign and/or detailing based on change of concept after prior approval and authorization to proceed and causing appreciable loss of work accomplished. This item consists of work required to revise plans and/or documents to the state of completion obtained prior to the order for change.

At the option of the City, payment for extra work may be made on a fixed price; a cost plus a fixed fee; time and materials; or other mutually-agreed basis. If the Consultant is of the opinion that any work the Consultant has been directed to perform is beyond the scope of this Agreement and constitutes extra work, the Consultant shall promptly notify the City in writing of that fact. In the event the City determines that such work does constitute extra work, the City shall provide extra compensation to the Consultant as provided for above. No extra work shall be performed by the Consultant without receiving a written agreement from the City in advance.

2. Deletion of Work: Authorization for deletion of work shall be evidenced by the City in writing. At the discretion of the City, work items listed in Section 2 - Scope of Services, or parts thereof, may be deleted from the Project. Reduction to the Consultant's compensation as a result of deletion of work shall be based on the cost estimate of the work deleted. In the event that the Consultant had performed authorized work on the items deleted prior to deletion, the cost of such work shall be retained in the Consultant's compensation.

K. NONDISCRIMINATION: The Consultant hereby acknowledges and agrees:

1. To comply with the Equal Employment Opportunity Program included in the City of Des Moines Contract Compliance Program, which is available at <http://www.dmgov.org/Departments/Engineering/Pages/Documents.aspx> or from the City Engineer's Office.
2. To comply with any and all applicable provisions of the Des Moines Human Rights Ordinance, Chapter 62 of the Des Moines Municipal Code.
3. Not to discriminate against any employees or applicants for employment on the basis of age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry, gender identify, familial status, or disability.
4. To include this provision in all subcontracts for this Project.
5. The Consultant shall be subject to all terms and provisions set forth in Attachment 1A.

L. DISADVANTAGED BUSINESS ENTERPRISE/TARGETED SMALL BUSINESS (DBE/TSB) PROGRAM: It is the policy of the City of Des Moines that Disadvantaged Business Enterprises (DBEs) or Targeted Small Businesses (TSBs), as defined in the City Contract Compliance Program, shall have the maximum opportunity to participate in the performance of City funded contracts and procurements. This Professional Services Agreement does not include any DBE or TSB goal; however, the Consultant is encouraged to solicit DBE or TSB participation, and whenever possible, include DBE or TSB Subconsultants for a portion of the work.

- M. SUBLETTING OR ASSIGNMENT TO SUBCONSULTANT:** The Consultant shall not sublet, assign, or otherwise dispose of any portion of the services to be provided by this Agreement without a written permission to sublet signed by the City Engineer. Requests for permission to sublet, assign or otherwise dispose of any portion of the services shall be in writing, and shall name the individual or organization to serve as the subconsultant (the "Subconsultant"), which will perform the work, the work to be performed, and the dollar amount of the work to be performed. When requested by the City Engineer, the Consultant shall provide a written report showing that the Subconsultant is particularly experienced and equipped for such work. Consent by the City for the Consultant to sublet, assign or otherwise dispose of any portion of this Agreement, shall not relieve the Consultant of any responsibility for fulfillment of this Agreement, nor shall it in any way create a contractual relationship between the City and the Subconsultant. The Consultant agrees to include in and make a part of all subagreements all portions of this Agreement which relate to the Subconsultants' work including the Nondiscrimination portions of this Agreement. Consultant agrees to include in all subagreements that the City is an intended beneficiary of the subagreement. The following listed Subconsultants shall be deemed to be approved when this Agreement is executed: AccuJet, LLC and Badger Daylighting.
- N. CLOSE-OUT OF AGREEMENT:** Upon completion or termination of Services under this Agreement, the Consultant shall provide the City the following documents:
1. Documents as stated in Section 1.G of the Agreement.
 2. Statement of Final Invoice.
 3. Written report showing the actual amounts paid by the Consultant for services under this Contract to DBE/TSB if a goal is established.
- O. LAWS, REGULATIONS AND CODES:** The Consultant hereby agrees that:
1. All work done as part of this Agreement is subject to current Federal, State, or Local Laws, Regulations and/or Codes and shall comply with such applicable Laws, Regulations and/or Codes.
 2. All design and survey work under this Agreement shall be performed under the direction and control of an engineer, surveyor, or architect licensed in Iowa. Engineering, architectural, and land surveying documents, including plans, specifications, and reports, shall be sealed by an engineer, surveyor, or architect licensed in Iowa.
 3. Consultant shall design all Project elements to comply with all applicable Federal, State and local laws, regulations and building codes, including but not limited to the Americans with Disabilities Act (ADA) as amended.
 4. Consultant Expected Standards of Conduct – COVID-19 Precautions
 - a. The City requires all individuals inside City facilities to wear a face mask covering their nose and mouth while in communal areas. This includes the Consultant and anyone whom will be performing work on behalf of the Consultant.
 - b. If Consultant or their agent(s) is unable to adhere to this requirement, Consultant shall notify the City and provide an explanation as to why they are not able to comply with the PPE requirement.
 - c. The City strongly encourages all its partners to adhere to CDC guidelines related to wearing masks, social distancing and other methods of slowing the spread of COVID-19 while conducting work on the City's behalf.
- P. ATTORNEYS' FEES:** In the event the City is required to enforce the provisions of this Agreement due to a dispute between the Consultant and the City or to collect damages for the breach of this Agreement and if the dispute results in the filing of a legal action and/or demand for arbitration, mediation, or other form of alternative dispute resolution, or if the City is required to protect or defend itself, and the City prevails in whole or in part, the City shall be entitled to reasonable attorney's fees, costs and expenses, including but not limited to out-of-pocket expenses, expert witness fees and costs, depositions, and other expenses of the proceedings, including expenses of collection of any judgments or awards rendered there under.

- Q. DEFENSE COOPERATION:** In the event that the City has to defend any claim or legal action relating to or resulting from goods or services pursuant to this Agreement, including but not limited to the Design Documents, or any other service provided under this Agreement, the Consultant shall cooperate fully with the City in defending such claim or action, including but not limited to, timely response to all requests by the City.
- R. CITY POLICY AND PROCEDURES:** The Consultant hereby agrees to conform to City policy and procedures as they relate to this Agreement. Such policy and procedure shall include but is not limited to the following:
1. Invoice and billings for service.
 2. City adopted Design Standards and specifications.
 3. The Des Moines Engineering Department standard format for reports, plans, and/or specifications includes:
 - a. Plan Sheets: 11"x 17" preferred and 24"x36" maximum size in Bentley Microstation digital format preferred or alternate AutoCad format.
 - b. Reports and/or specifications: 8.5"x11" in Microsoft Word digital format.
 - c. Other formats only upon special approval of the City Engineer.
 4. Plan-review process including site-plan and review by Boards and Commissions.
 5. Include City Activity ID on all documents related to this Agreement.
- S. NOTICE TO PROCEED:** The Consultant shall not begin work until a written notice to proceed is issued by the City Engineering Department. If Section 2 of this Agreement provides for the work to be completed in phases, a notice to proceed shall be issued for each phase.
- T. INDEPENDENT CONTRACTOR STATUS:** It is expressly understood that Consultant is an independent contractor and not the agent or employee of the City. Consultant is not entitled to tax withholding, workers' compensation, unemployment compensation, or any employee benefits, statutory or otherwise. Consultant shall not have the authority to enter into any contract to bind the City and shall not represent to anyone that Consultant has such authority.
- U. USE OF CITY NAME AND INTELLECTUAL PROPERTY:** Consultant agrees it will not use the City name, logos, trademarks or any intellectual property of the City in any manner, including commercial advertising, portfolio or other business reference, without the express prior written consent of the City.
- V. CONFIDENTIALITY:** Consultant agrees to hold in trust and confidence any confidential and proprietary information, record, documents or data relating to City business that is identified by the City as confidential and proprietary ("Confidential Information"). If Consultant receives a request for disclosure of Confidential Information, Consultant shall immediately notify the City and cooperate with the City on a response to the requestor of such information.
- W. LAWS OF IOWA:** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Iowa. Consultant, on behalf of itself and insurers, agrees and consents that any causes of action arising out of this Agreement shall be brought in the appropriate court of jurisdiction in Polk County, Iowa and consents, on behalf of itself and insurers, to the jurisdiction of either the United States District Court, Southern District of Iowa or the Iowa District Court in and for Polk County, Iowa.

SECTION 2 - SCOPE OF SERVICES

- A. SERVICES PROVIDED BY CONSULTANT:** Detailed Scope of Services shall be as stipulated in Attachment No. 2, "Scope of Services," to Agreement.
- B. OBLIGATION OF CITY TO CONSULTANT:** The City shall:
1. Provide available information, such as topography, site plans, building plans, mapping, and other information that mutually is agreed upon as pertinent to the Project.

2. Designate a liaison officer from the City who will work directly with the Consultant to coordinate the collection of City-supplied data, arrange for meetings, and be responsible for the general coordination between the City and the Consultant.

SECTION 3 - COMPENSATION: The Consultant shall be compensated by the City as follows:

- A. HOURLY:** Compensation to the Consultant for all services under this Agreement shall be on the basis of hourly labor rates, and reimbursable costs as shown in the current Consultant's Standard Fee Schedule as shown in Attachment No. 3. The total compensation for the Project services shall not exceed \$130,185 without prior approval of the City.

The Consultant shall bill services based on the Consultant's current standard fee schedule at the time services are rendered, subject to the fee schedule being approved by the City Engineer in writing. Any adjustment or change in the standard fee schedule will not affect the maximum fee set forth above.

- B. TERMINATION:** In the event of termination under Section 1.1 of this Agreement, compensation to the Consultant shall be as follows:
1. Salary costs and reimbursable expenses incurred for completed portion of work to date of termination.
 2. For incomplete portions of work, compensation for Consultant's services rendered to date of termination based upon the Consultant's standard hourly rates
 3. Compensation due subconsultants for services rendered to the date of termination, plus reimbursable expenses incurred for services.

- C. DEFINITIONS:** The following definitions shall be used:

1. Salary costs used as a basis for payment mean salaries and wages (basic and incentive) paid to all Consultant's personnel engaged directly on the Project, including, but not limited to, engineers, architects, surveyors, designers, technicians, specification writers, estimators, other technical and business personnel; plus the cost of customary and statutory benefits including, but not limited to, social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday pay and other group benefits.
2. Reimbursable expenses mean the direct non-salary expenses incurred by the Consultant which are directly attributable and properly allocable to the Project. Such costs are not included in the overhead expense pool and may include: travel and subsistence, reproductions, computer charges, materials and supplies.

- D. TAX LIABILITY:** Consultant agrees that Consultant is solely responsible for payment of income, social security, and other employment taxes due to the proper taxing authorities, and that the City will not deduct such taxes from payment to Consultant.

SECTION 4 - COMPLETION OF WORK: The Consultant shall complete all services outlined in this Agreement on or before June 1, 2023 providing no unforeseen delays are experienced beyond the control and without the fault or negligence of the Consultant.

SECTION 5 – PRIMARY CONTACTS FOR THIS AGREEMENT: The City Engineer has designated the primary contact person for the City of Des Moines as Jonathan Bullock, (515) 283-4074, jrbullock@dmgov.org. All communications directed to the City must be in writing to Jonathan Bullock.

The primary contact person for Olsson, Inc., shall be James Gallagher, P.E., Project Engineer, 1717 Ingersoll Avenue, Ste. 111, Des Moines, IA 50309, (515) 867-2763, jgallagher@olsson.com. All communications directed to the Consultant must be in writing, such as payments, contracts, etc., directed to James Gallagher.

Any notice required by this Agreement shall be in writing and may be personally delivered or sent by ordinary mail to the addresses hereafter provided. Mailed notices shall be deemed to be received by the party to whom directed when they are postmarked. Such notices and invoices shall be delivered or mailed to the following persons at the addresses listed below:

To City: Jonathan Bullock
400 Robert D. Ray Drive
Des Moines, IA 50309

To Consultant: James Gallagher, P.E.
1717 Ingersoll Avenue, Ste. 111
Des Moines, IA 50309

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, in triplicate, as of this 1st day of November, 2021.

CITY OF DES MOINES, IOWA

OLSSON, INC.

Linda Westergaard
~~T.M. Franklin Cowrie, Mayor~~
Linda Westergaard, Mayor Pro Tem

Ryan Beckman
Ryan Beckman, President

FORM APPROVED:

ATTEST:

Kathleen Vanderpool by AD
Kathleen Vanderpool, Deputy City Attorney

P. Kay Cmelik
P. Kay Cmelik, City Clerk

ATTACHMENT 1

CITY OF DES MOINES, IOWA PROFESSIONAL SERVICES – CONSTRUCTION DESIGN

INSURANCE & INDEMNIFICATION REQUIREMENTS

For the purposes of this Attachment and all provisions included herein, the term “CITY” shall mean the City of Des Moines, Iowa, including its elected and appointed officials, employees, agents, volunteers, boards, commissions and others working on its behalf.

1. GENERAL

The CONSULTANT shall purchase and maintain insurance to protect the CONSULTANT and CITY throughout the duration of the Agreement. Said insurance shall be provided by insurance companies “admitted” or “non-admitted” to do business in the State of Iowa having no less than an A. M. Best Rating of “B+.” All policies, except professional liability, shall be written on an occurrence basis and in form and amounts satisfactory to the CITY. Certificates of Insurance confirming adequate insurance coverage shall be submitted to the CITY prior to Agreement execution or commencement of work and/or services.

2. INSURANCE REQUIREMENTS

- A. COMMERCIAL GENERAL LIABILITY INSURANCE: Commercial General Liability insurance on an occurrence basis with limits of liability not less than \$1,000,000 per occurrence and/or aggregate combined single limit covering Personal Injury, Bodily Injury and Property Damage. Coverage shall include: (a) Contractual Liability, (b) Premises and Operations, (c) Products and Completed Operations, (d) Independent Contractors Coverage, (e) Personal and Advertising Injury and (f) Explosion, Collapse and Underground- XCU (when applicable). ***Waiver of Subrogation in favor of the CITY is required as per paragraph 2.F. below.***

Coverage shall be no less comprehensive and no more restrictive than the coverage provided by ISO standard Commercial General Liability Policy form ISO CG 0001 including standard exclusions or a non-ISO equivalent form. ***The CITY shall not be included as an Additional Insured.***

- B. CONTRACTUAL LIABILITY: The Contractual Liability coverage required above shall include the cost of defense and settlement. CONSULTANT agrees to submit to its insurance carrier, on behalf of the CITY, any claim or demand against the CITY for which the CONSULTANT has agreed to defend, indemnify and hold the CITY harmless in Section 3 Indemnification below, and to do so in a timely manner so required in its insurance policies.
- C. WORKER'S COMPENSATION & EMPLOYER'S LIABILITY INSURANCE: As required by State of Iowa Workers' Compensation Law, the CONSULTANT shall procure and maintain Worker's Compensation Insurance, including Employer's Liability Coverage. The Workers' Compensation Insurance shall be written with State of Iowa statutory limits. If, by Iowa Code Section 85.1A, the CONSULTANT is not required to purchase Workers' Compensation Insurance, the CONSULTANT shall have a copy of the State's Nonelection of Workers' Compensation or Employers' Liability Coverage form on file with the Iowa Workers' Compensation Insurance Commissioner, as required by Iowa Code Section 87.22. ***Waiver of Subrogation in favor of the CITY is required as per paragraph 2.F. below.***

- D. **PROFESSIONAL LIABILITY INSURANCE:** Professional Errors and Omissions Insurance with limits not less than \$1,000,000 per claim and in the aggregate.
- E. **CANCELLATION & NONRENEWAL NOTIFICATION:** The CONSULTANT shall provide the CITY with no less than ten (10) days notification of cancellation or nonrenewal of the General Liability Insurance and Professional Liability Insurance policies required above.
Written notifications shall be sent to: City of Des Moines, Engineering Department, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa 50309.
- F. **WAIVER OF SUBROGATION:** To the fullest extent permitted by law, CONSULTANT hereby releases the CITY from and against any and all liability or responsibility to the CONSULTANT or anyone claiming through or under the CONSULTANT by way of subrogation or otherwise, for any loss without regard to the fault of the CITY or the type of loss involved including loss due to occupational injury. This provision shall be applicable and in full force and effect only with respect to loss or damage occurring during the time of this Agreement. The CONSULTANT'S Workers Compensation Insurance and General Liability Insurance policies shall contain either a policy provision or endorsement affirming the above stated release in favor of the CITY, including its elected and appointed officials, agents, employees and volunteers and other working on its behalf.
- G. **PROOF OF INSURANCE:** The CONSULTANT shall provide the following proof of insurance to the CITY:
- Certificates of Insurance evidencing all insurance coverage as required in paragraphs A through F above utilizing the latest version of the ACORD form. The Certificate(s) of Insurance shall specify the Title of the Agreement under "Description of Operations/Locations/Vehicle/Special Items" and indicate Waiver of Subrogation by marking the corresponding boxes on COI and/or including a statement of compliance under Description of Operations.
Mail to: City of Des Moines, Engineering Department, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa 50309.
- H. **AGENTS, SUBCONSULTANTS AND SUBCONTRACTORS:** The CONSULTANT shall require all its agents, subconsultants and subcontractors who perform work and/or services on behalf of the CONSULTANT to purchase and maintain the types of insurance customary to the industry or trade related to the services being provided.

3. **INDEMNIFICATION REQUIREMENTS**

For other than professional services rendered, to the fullest extent permitted by law, CONSULTANT agrees to defend, pay on behalf of, indemnify, and hold harmless the CITY against any and all claims, demands, suits, damages or losses, together with any and all outlay and expense connected therewith including, but not limited to, attorneys' fees and court costs that may be asserted or claimed against, recovered from or suffered by the CITY by reason of any injury or loss including, but not limited to, personal injury, bodily injury including death, property damage including loss of use thereof, and economic damages that arise out of or are in any way connected or associated with CONSULTANT'S work or services under this Agreement, including that of its officers, agents, employees, subconsultants, subcontractors and others under the control of CONSULTANT, except to the extent caused by or resulting from the negligent act or omission of the CITY or the CITY'S employees, consultant's, agents or others for whom the CITY is responsible.

For professional services rendered, to the fullest extent permitted by law, CONSULTANT agrees to pay on behalf of, indemnify, and hold harmless the CITY against any and all claims, demands, suits,

damages or losses, together with any and all outlay and expense connected therewith including, but not limited to, attorneys' fees and court costs and economic damages that may be recovered from or suffered by the CITY that arise out of any negligent act, error or omission of the CONSULTANT, including that of its officers, agents, employees, subconsultants, subcontractors and others under the control of CONSULTANT, except to the extent caused by or resulting from the negligent act or omission of the CITY or the CITY'S employees, consultants, agents or others for whom the CITY is responsible.

CONSULTANT'S obligation to indemnify the CITY contained in this Agreement is not limited by the amount or type of damages, compensation or benefits payable under any workers' compensation acts, disability benefit acts, or other employee benefits acts.

The CITY shall not be liable or in any way responsible for any injury, damage, liability, claim, loss or expense incurred by CONSULTANT arising out of or in any way connected or associated with CONSULTANT'S work or services under this Agreement, including that of its officers, agents, employees, subconsultants, subcontractors and others under the control of CONSULTANT, except to the extent caused by or resulting from the negligent act or omission of the CITY or the CITY'S employees, consultants, agents or others for whom the CITY is responsible.

CONSULTANT expressly assumes responsibility for any and all damage caused to CITY property arising out of or in any way connected or associated with CONSULTANT'S work or services under this Agreement, including that of its officers, agents, employees, subconsultants, subcontractors and others under the control of CONSULTANT.

CONSULTANT shall ensure that its activities on CITY property will be performed and supervised by adequately trained and qualified personnel and CONSULTANT will observe all applicable safety rules.

**PROFESSIONAL SERVICES AGREEMENT - ATTACHMENT 1A
TRANSPORTATION PROJECT**

During the performance of this contract, the consultant, for itself, its assignees, and successors in interest (hereinafter referred to as the "consultant") agrees as follows:

1. Compliance with Regulations: The consultant shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Non-Discrimination: The consultant, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, national origin, sex, age, or disability in the selection and retention of subconsultants, including procurement of materials and leases of equipment. The consultant shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subconsultant or supplier shall be notified by the consultant of the consultant's obligations under this contract and the Regulations relative to non-discrimination on the grounds of race, color, national origin, sex, age, or disability.

4. Information and Reports: The consultant shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City of Des Moines, the IDOT or Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a consultant is in the exclusive possession of another who fails or refuses to furnish this information the consultant shall so certify to the City of Des Moines, the IDOT, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Non-Compliance: In the event of the consultant's noncompliance with the non-discrimination provisions of this contract, the City of Des Moines shall impose such contract sanctions as it, the IDOT or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- a. withholding of payments to the consultant under the contract until the consultant complies, and/or
- b. cancellation, termination, or suspension of the contract, in whole or in part.

6. Incorporation of Provisions: The consultant shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The consultant shall take such action with respect to any subcontract or procurement as the City of Des Moines, the IDOT or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a consultant becomes involved in, or is threatened with, litigation with a subconsultant or supplier as a result of such direction, the consultant may request the City of Des Moines or the IDOT to enter into such litigation to protect the interests of the City of Des Moines or the IDOT; and, in addition, the consultant may request the United States to enter into such litigation to protect the interests of the United States.

**ATTACHMENT 2
SCOPE OF SERVICES
FOR
CITY OF DES MOINES
AGREEMENT FOR PROFESSIONAL SERVICES
WATROUS AVENUE IMPROVEMENT PROJECT (S.W. 56TH – S.W. 61ST)
Activity ID 01-2021-025**

The Scope of Services to be performed by the **CONSULTANT** under this Agreement shall encompass and include detailed work, services, materials, equipment and supplies to complete the following tasks:

1. Project/Contract Management
2. Project Coordination
3. Survey and Data Collection
4. Conceptual Design
5. Plan Design Development
6. Bidding Phase Services
7. Construction Phase Services

for the Watrous Avenue Improvement Project (S.W. 56TH Street – S.W. 61ST Street).

PROJECT/CONTRACT MANAGEMENT

A. Monitoring Project Schedule

The **CONSULTANT** shall prepare and submit monthly email updates (1-page), outlining the following activities during the reporting period: activities planned for the following month, problems encountered and recommended solutions, and overall project status. If design work is not progressing in a manner to comply with the anticipated completion date, the **CONSULTANT** shall provide a brief summary of the actions to be taken to reduce or eliminate any delays in completing the design in accordance with the agreed upon schedule. The monthly update shall include a list of requested information from the **CITY** with a desired response date noted to avoid delay of the **CONSULTANT**'s services.

The overall project schedule shall be developed to anticipate an October 2022 **CITY** letting, which shall follow the milestones outlined below.

B. Monitoring Project Scope

The **CONSULTANT** shall provide task identification, scheduling, task assignment, relating all tasks to the others, and coordination with all entities associated with the project. The **CONSULTANT** shall inform the **CITY** of any services required which may not be included in the scope of services contract approved by the **CITY** for this project. It shall be the responsibility of the **CONSULTANT** to make the **CITY** aware of any potential amendments to the contract before the services are rendered. This notice shall occur prior to any extra services being performed. Only those services included in the Agreement or added by written Amendment, executed by both parties are eligible for compensation.

PROJECT COORDINATION

A. Project Review Meetings

The **CONSULTANT** shall meet with the **CITY** or its designated representative to review progress and to discuss specific elements of the project design. The meetings shall serve to establish schedules, develop project goals, establish design parameters, promote a dialog between the various entities, improve the decision-making process, and expedite design development. The **CONSULTANT** shall document and distribute minutes for all meetings.

The following project review meetings with city staff are included as part of this scope of work:

1. Project Kickoff Meeting
2. Conceptual Design

3. Preliminary Design (50% level)
4. Check Design (90% level)

The **CONSULTANT** shall attend additional project coordination meetings with outside agencies and the public as described in the sections below.

B. Utility Coordination

The **CONSULTANT** shall contact Iowa One Call through the Design Request System to obtain locations of underground utility facilities within the project limits. The **CONSULTANT** shall contact the owners/operators of the underground utility facilities within the project limits to obtain information on the facilities and establish coordinates and elevations (if possible) for utilities that fall within the limits of the project.

The **CONSULTANT** shall field locate visible valves and utility access within the project limits to accurately account for adjustment and/or replacement. Underground utilities shall be incorporated into the project through map requests to the utility companies and drawn into the design file. This work shall be considered survey quality level "B", per Construction Institute/American Society of Civil Engineers (CI/ASCE) standard guideline 38-02. Utilities include phone, gas, fiber optic, water main, overhead/underground electrical, sanitary sewer, storm sewer, and in-pavement traffic control equipment (including power poles, pedestals, valves and manholes).

The **CONSULTANT** shall meet with utilities to advise the nature and extent of the proposed improvements and any potential conflicts during the Preliminary Plans (50%) and Check Plans (90%) phase. It is anticipated that there will be four (4) meetings with representatives of the various utility companies. The **CONSULTANT** shall distribute Final Plans to all potentially impacted utilities. The **CONSULTANT** shall keep a record log of all communications and correspondence with each utility company and provide the record log to the City prior to preconstruction conference.

The **CONSULTANT** shall coordinate water main replacement within the project limits with Des Moines Water Works (DMWW) and incorporate water main plans provided by DMWW in preliminary and final plans.

C. Sanitary Sewer Services

The **CONSULTANT** shall determine the location and elevation of sanitary sewer services. The **CITY** shall available provide television reports for existing sanitary sewer mains.

D. Public Participation and Involvement

The **CONSULTANT** shall develop a public participation and involvement plan to be implemented and utilized throughout the design and construction of the project. The plan shall include public notices, one-on-one meetings and one (1) public meeting, *all in accordance with CITY's COVID-19 policies and guideline at the time of such meetings.*

1. Property Owner Coordination – Public Notices

The following Public Notices are anticipated as part of this project:

- i. Public Meeting invitation letters
- ii. Incidental letters (e.g., tree removals, project schedule update)

The **CITY** shall provide the **CONSULTANT** templates for all letters, mailing address lists, and envelopes. The **CONSULTANT** shall prepare and mail all letters to Property Owners. Property Owners will be encouraged to respond directly to the **CITY** with comments and concerns. The **CONSULTANT** shall assist in tracking public comments and incorporate suggestions into the project, as appropriate.

2. Property Owner Coordination – Public Meetings

The **CONSULTANT** shall attend one (1) public informational meeting. The purpose of the meeting shall be to provide an overview of the proposed improvements and potential impacts to surrounding properties. The **CONSULTANT** shall gather information from property owners, businesses, and stakeholders regarding project concerns, specific issues, and priorities. The **CONSULTANT** shall provide the following services:

- i. Participation in one (1) pre-planning meeting approximately one week prior to the public meeting.
- ii. Preparation of necessary maps showing the proposed improvements.
- iii. Preparation of a Project Fact Sheet (for attendees to take)
- iv. Attendance at and participation in public meeting.

3. One-on-One Meetings

The **CONSULTANT** recognizes that several stakeholders will be involved in this project. The **CONSULTANT** shall contact stakeholders to identify and address their concerns. Due to the potential impacts to landscaping elements and property access, one-on-one meetings with affected parties shall be anticipated outside of the public meeting(s) and may include on-site meetings, phone calls, and emails. The **CONSULTANT** shall document all correspondence with stakeholders and provide monthly updates to the **CITY** or as issues arise. It is anticipated the list of stakeholders will include, but is not be limited to the following businesses and residents:

- i. Kruse Development
- ii. Mike Knapp
- iii. Conlin Properties
- iv. Des Moines Airport Authority

For budgeting purposes, the **CONSULTANT** has allotted two (2) hours for each one-on-one meeting with the businesses and residents listed above. If additional hours are required, the **CONSULTANT** shall submit a request for an agreement amendment.

E. Federal Aviation Administration (FAA) Coordination

The **CONSULTANT** shall coordinate with the Federal Aviation Administration (FAA) by completing Form 7460 – Notice of Proposed Construction or Alteration for the project. No additional coordination is expected.

SURVEY AND DATA COLLECTION

A. Individual Parcel Exhibits

The **CONSULTANT** shall prepare individual property acquisition exhibits (8.5-in by 11-in) for each parcel which will consist of aerial imagery and show the proposed roadway design elements, driveway access, and site modifications; in addition to existing right-of-way lines, proposed fee title right-of-way needs and permanent/temporary easement needs. The exhibits shall be labeled with key parcel information and reference individual easement square footage areas. The exhibits shall be used for initial right-of-way discussions and verification in advance of the preparation of acquisition plats. For budgetary purposes, it is assumed that 7 parcel exhibits are within the project limits.

B. Additional Data Collection

1. Pavement Cores

The **CITY** shall provide City's available existing pavement core data to the **CONSULTANT**.

2. Televising

The **CONSULTANT** shall provide televising data for the existing storm and sanitary sewers to remain within the project limits.

3. Potholing

The **CONSULTANT** shall obtain potholes to verify the elevation of the existing utilities in conflict with the proposed improvements. The **CONSULTANT** shall obtain critical locations using hydro-excavating (potholing). Traffic control and survey will be required to facilitate this task. The Scope includes eight (8) pothole locations to determine utility location that meets quality level "A", per CI/ASCE 38-02. Should this allowance need to be exceeded, the **CONSULTANT** shall contact the **CITY** prior to proceeding for a supplemental agreement.

CONSULTANT shall provide subsurface utility excavation for the investigation of underground utilities as they affect specific project locations. We have included an allowance for this item for up to eight (8) locations

along the corridor. Should this allowance need to be exceeded, CONSULTANT shall contact CITY prior to proceeding for a supplemental agreement

CONCEPTUAL DESIGN

A. Develop Design Criteria and Research

The CONSULTANT shall prepare design criteria to be used in developing conceptual design plans and specifications. Criteria shall conform to Statewide Urban Design and Specifications (SUDAS) and policies. The criteria to be addressed shall include:

1. Existing conditions
2. Verify existing roadway parameters (roadway classification, existing design speeds, typical cross-section, cross slope, curb radii, etc.)
3. Pavement design recommendations
4. ADA sidewalk ramp compliance locations and needs
5. Potential surface and parkway drainage concerns
6. Utility structure deficiencies or impacts (manholes, intakes, valves, handholes, traffic signal equipment, etc.)
7. Conceptual construction staging concept
8. Property owner impacts: access, parkway grading, impacted landscaping, trees, mailboxes, driveway concerns, etc.
9. Estimated number and acreage of trees for removal
10. Recommendations
11. Alternative recommendations
12. Design Exceptions
13. Regulatory Permit Needs, if Required (NPDES, DNR water, DNR sewer, etc.)

B. Review of Multimodal Design

1. The CONSULTANT shall provide review of conceptual design to ensure compliance with national standards for multimodal transportation.

PLAN DESIGN DEVELOPMENT

A. Design Sheet Criteria

All plan sheets shall include the project Activity ID and Plan File Number. The CITY shall provide the CONSULTANT with a standard border and Title Sheet. The following Sheet Numbering System should generally be followed for this project:

A.01	Title Sheet – to include: Project Title “Location-From-To-Description of Work”; Activity ID; Bid Date; location map; index of sheets; City of Des Moines Signature Block; Name, logo and phone number of engineering consultant; engineer’s certification block(s); Iowa One Call logo; Utility Contacts; Total Number of Sheets
A.02	Symbol Legend
B-Sheets	Typical Cross Sections and Details
C-Sheets	Estimated Quantities, Tabulations, and General Notes
D-Sheets	Mainline Plan and Profile
E-Sheets	Side Street Plan and Profile
G-Sheets	Survey Sheets (including alignment coordinates, reference ties, benchmarks, and control)
H-Sheets	Right-of-Way Sheets
J-Sheets	Temporary Traffic Control, Staging, and Detours
K-Sheets	Pavement Markings and Signage Plan
L-Sheets	Geometric Details and Jointing Plan
M-Sheets	Storm Sewer Plan and Profile Sheets
O-Sheets	Water Main Plan and Profile Sheets (design by others)
P-Sheets	Lighting Layout Sheets
R-Sheets	Removals Plan
S-Sheets	Sidewalk Sheets (includes compliance tables)

U-Sheets	Special Details (unique to project and/or revised standard details)
V-Sheets	Bridge and Culvert Situation
W-Sheets	Mainline Cross Sections
X-Sheets	Side Street Cross Sections

Page numbers may be modified, as necessary, to conform to Iowa DOT and/or SUDAS standards.

B. Preliminary Plans (50%)

1. Preliminary Plan Preparation

After CITY's review of the 50% Preliminary Design Plans and upon authorization from the CITY, the CONSULTANT shall proceed with the development of Preliminary Design Plans for the project lettings. Upon completion, the design plans shall be approximately 50% complete. The submittal of Preliminary Plans shall be completed on or before the outlined in the anticipated schedule below.

Preliminary Plans shall be completed to provide the CITY the detail necessary to evaluate and budget for ultimate project improvement goals and an understanding of property impacts. The criteria to be addressed shall include items listed on the Preliminary Plans (50%) Checklist. The following specific design items are to be included:

- i. Pavement construction limits and profile
- ii. Layout of sidewalk, including ADA compliant sidewalk ramp locations
- iii. Storm sewer system
- iv. Utility adjustments

2. Field Exam

A Field Exam shall be held with the CITY of Des Moines Project Manager to discuss key issues, design concepts, access control and traffic control/stage construction. The review shall determine the completion of the plan design, identify needed adjustments to minimize potential property impact and confirm the proposed staging plans. Revisions shall be noted for preparation of the final design.

3. Deliverables

- i. *Electronic set of Preliminary (50%) Plans*
- ii. *Electronic copy of City conceptual design comments and how each comment was addressed*
- iii. *Preliminary Plan (50%) Checklist*

C. Check Plans (90%)

After CITY's review of the 50% Preliminary Design Plans and upon authorization from the CITY, the CONSULTANT shall proceed with the development of Check Plans. Upon completion, the design plans shall be approximately 90% complete. It is assumed that no geometric revisions to the roadway design will occur after the start of the development of the check plans. The submittal of Check Plans shall be completed on or before the date outlined in the anticipated schedule below

Check Plans shall be completed in preparation of the letting. The criteria to be addressed shall include items listed on the Check Plans (90%) Checklist. Plan set shall be biddable with only minor changes expected after this submittal.

1. Incorporate Comments from Preliminary Plan Review and Field Exam

The CONSULTANT shall respond to comments resulting from CITY Preliminary Plan (50%) Review and Field Exam. Recommended modifications will be incorporated into the plan set.

2. Draft Special Provisions

The CONSULTANT shall submit any draft special provisions for the project.

3. Opinion of Probable Construction Cost

The CONSULTANT shall prepare an opinion of probable construction cost for the project. The cost estimate shall be based on representative major project elements and recent bid information. The CONSULTANT shall budget and review bid items and quantities associated with the project.

4. Deliverables

- i. *Electronic set of 90% plans*
- ii. *Electronic copy of City 50% design comments and how each comment was addressed*
- iii. *Opinion of Probable Construction Costs*
- iv. *Draft Special Provisions*
- v. *Check Plans (90%) Checklist*

D. Final Plans (100%)

After CITY's review of the 90% Check Plans and upon authorization from the CITY, the CONSULTANT shall proceed with the development of Final Plans for the project. Upon completion, the design plans shall be 100% complete. The submittal of final plans shall be completed on or before the date outlined in the anticipated schedule below.

1. Incorporate Comments from Check Plan Review

The CONSULTANT shall respond to comments resulting from the Check Plan Review. Recommended modifications shall be incorporated into the final plan set.

2. Final Special Provisions

The CONSULTANT shall submit final special provisions incorporating any comments resulting from the Check Plan Review.

3. Opinion of Probable Construction Cost

The CONSULTANT shall prepare an opinion of probable construction cost for the project. The final cost opinion shall include all project elements. The published cost opinion should be rounded to the nearest \$1,000.

4. Deliverables

- i. *Complete set of Final Plans, in PDF format*
- ii. *Signed, sealed, and dated cover sheet, hardcopy*
- iii. *Final quantities and cost estimate, in Excel format*
- iv. *Special Provisions, in Word format*
- v. *All CADD drawings, in Microstation format with Iowa DOT symbology*
- vi. *Approved permits necessary for the project*

BIDDING PHASE SERVICES

The work tasks to be performed or coordinated by the CONSULTANT during the Bid Period Services are based upon one bid letting and shall include the following:

A. Plan Clarification and Addenda

The bid letting shall be administered by the CITY. The CONSULTANT shall assist the CITY during the bid periods in answering questions regarding the design intent. The CONSULTANT shall address questions presented by the CITY and prepare addendum for distribution by the CITY, if required. For budgeting purposes, the CONSULTANT has based its fee upon a maximum of two (2) addendums during project bidding.

CONSTRUCTION PHASE SERVICES

A. **Preconstruction Conference** – The CONSULTANT shall attend a preconstruction conference for the construction contract with the Contractor, utilities, review agencies and CITY to review the contract requirements, details of construction, utility, conflicts and work schedule.

B. **Progress Site Visits** - The CONSULTANT shall cause its project engineer(s) to make periodic visits to the construction site at intervals appropriate to the stage of construction or as otherwise agreed by the CITY and the CONSULTANT in writing to (a) observe the progress, (b) review the quality of the work, and (c) determine if the work conforms to the drawings and specifications in the construction contract.

Notification of Nonconformance - On the basis of on-site observations as a design professional, the **CONSULTANT** shall keep the **CITY** informed of the progress and quality of the Work and shall guard the **CITY** against defects and deficiencies in the Work. The **CONSULTANT** shall notify the **CITY** of any work which is unsatisfactory, faulty, defective, incomplete or does not conform to the Contract Documents, advise and recommend action required to correct or complete such unsatisfactory, faulty, defective or incomplete work and, at the request of the **CITY**, see that these recommendations are implemented by the Contractor.

If the Contractor requests a waiver of any provisions of the plans and specifications, the **CONSULTANT** shall make a recommendation on the request to the **CITY** for its determination. No waiver shall be granted if such waiver would serve to reduce the quality of the final product. The **CITY** shall never be deemed to have authorized the **CONSULTANT** to consent to the use of defective workmanship or materials.

- C. Shop Drawings** - The **CONSULTANT** shall review the Contractor's shop drawings, samples, and other required data for compliance with the contract documents. The **CONSULTANT** shall evaluate and determine the acceptability of substitute materials and equipment proposed by the Contractor and make a recommendation to the **CITY** regarding acceptance for the **CITY**'s approval. The **CONSULTANT** shall have the authority to recommend special inspection or testing of the work to be conducted.
- D. Design Interpretation Questions** - The **CONSULTANT** shall provide answer to design interpretation questions from Engineer, Contractor, review agencies and utilities.
- E. Contractor Payment Requests** – The **CONSULTANT** shall assist the **CITY** with the preparation of progress payment applications submitted by the Contractor and, based upon its review of construction progress by on-site observation and shall make a recommendation to the Engineer for payment of the appropriate amount for work completed since the last payment application. Prior to the preparation of a payment application, the **CONSULTANT** shall review material testing results and certifications on the project and only recommend payment for items that have acceptable material documentation on file.
- F. Change Orders** – The **CONSULTANT** shall assist the **CITY** with the preparation of change orders and make recommendation regarding approval to the **CITY** prior to Contractor's start of work under the change order.
- G. Substantial Completion; Punch List** – The **CONSULTANT** shall perform a site observation to determine if the Project is substantially complete in accordance with the plans and specifications and prepare a punch list of items to be completed prior to final completion and acceptance.
- H. Final Inspection and Acceptance** – The **CONSULTANT** shall coordinate a final inspection with the Contractor and **CITY**. On the basis of such inspection, the **CONSULTANT** shall make a recommendation to the **CITY** regarding final payment and acceptance of the Project. It is understood that the **CITY** will accept the Project only after recommendation by the **CONSULTANT**.

For budgeting purposes, the **CONSULTANT** has based its fee on the following:

Construction Administration services identified in Paragraphs A-H above will be provided on the following projected construction schedule and staffing assignment:

- Thirty (30) weeks in construction years 2022 - 2023.
- One (1) staff member of the Consultant shall be available for an average of four (4) hours every week for a total maximum of 120 hours of construction administration services.

In the event the construction period exceeds the contract completion provisions or unanticipated conditions require construction administration in excess of the allotted 120 hours, the **CONSULTANT** shall notify the **CITY** as it approaches this limit and estimate the additional effort necessary to complete the project, which would require a Supplemental Agreement.

SCHEDULE

A. Deadlines for Project Milestones

1. Complete conceptual design: December 8, 2021
2. ROW/easement acquisition identification: December 17, 2021
3. Preliminary plans (50%) submittal: January 17, 2022
4. Commence public involvement: January 31, 2022
5. Check plans (90%) submittal: February 28, 2022
6. Final plans (100%) submittal: March 28, 2022
7. Bid letting: May 10, 2022

**ATTACHMENT 3
OLSSON BILLING RATE SCHEDULE
2021 LABOR RATES**

<u>Description</u>	<u>Range</u>
Principal	129.00 - 388.00
Project Manager	120.00 - 233.00
Project Professional	98.00 - 217.00
Assistant Professional	67.00 - 155.00
Designer	90.00 - 188.00
CAD Operator	54.00 - 119.00
Survey	52.00 - 166.00
Construction Services	43.00 - 233.00
Administrative/Clerical	41.00 - 159.00
Drilling Crew	\$130/hour
1-Man Survey Crew	\$145/hour
2-Man Survey Crew	\$215/hour
UAV Operator	\$115/hour
UAV Assistant Technician	\$85/hour

Note:

REIMBURSABLE EXPENSE SCHEDULE

The expenses incurred by Olsson or Olsson's independent professional associates or consultants directly or indirectly in connection with the Project shall be included in periodic billing as follows:

<u>Classification</u>	<u>Cost</u>
Automobiles (Personal Vehicle)	\$0.56/mile*
Suburban's and Pick-Ups	\$0.75/mile*
Automobiles (Olsson Vehicle)	\$85.00/day
Other Travel or Lodging Cost	Actual Cost
Meals	Actual Cost
Printing and Duplication including Mylars and Linens	
In-House	Actual Cost
Outside	Actual Cost
Postage & Shipping Charges for Project Related Materials including Express Mail and Special Delivery	Actual Cost
Film and Photo Developing	Actual Cost
Telephone and Fax Transmissions	Actual Cost
Miscellaneous Materials & Supplies Applicable to this Project	Actual Cost
Copies of Deeds, Easements, or other Project Related Documents	Actual Cost
Fees for Applications or Permits	Actual Cost
Sub-Consultants	Actual Cost
Taxes Levied on Services and Reimbursable Expenses	Actual Cost
UAV with LiDAR Sensor Equipment	\$1,500.00/day
UAV with Camera	\$150.00/day
Drilling 0-25 feet	\$8.55/foot
Drilling Rig Mobilization	\$2.25/mile
Equipment Rentals	Actual Cost

*Rates consistent with the IRS Mileage Rate Reimbursement Guidelines (Subject to Change).

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

XTEND ENDORSEMENT FOR ARCHITECTS, ENGINEERS AND SURVEYORS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|--|--|
| <ul style="list-style-type: none"> A. Non-Owned Watercraft – 75 Feet Long Or Less B. Who Is An Insured – Unnamed Subsidiaries C. Who Is An Insured – Retired Partners, Members, Directors And Employees D. Who Is An Insured – Employees And Volunteer Workers – Bodily Injury To Co-Employees, Co-Volunteer Workers And Retired Partners, Members, Directors And Employees E. Who Is An Insured – Newly Acquired Or Formed Limited Liability Companies F. Blanket Additional Insured – Controlling Interest G. Blanket Additional Insured – Mortgagees, Assignees, Successors Or Receivers | <ul style="list-style-type: none"> H. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Premises I. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Operations J. Incidental Medical Malpractice K. Medical Payments – Increased Limit L. Amendment Of Excess Insurance Condition – Professional Liability M. Blanket Waiver Of Subrogation – When Required By Written Contract Or Agreement N. Contractual Liability – Railroads |
|--|--|

PROVISIONS

A. NON-OWNED WATERCRAFT – 75 FEET LONG OR LESS

1. The following replaces Paragraph (2) of Exclusion g., **Aircraft, Auto Or Watercraft**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

- (2) A watercraft you do not own that is:
 - (a) 75 feet long or less; and
 - (b) Not being used to carry any person or property for a charge;

2. The following replaces Paragraph 2.e. of **SECTION II – WHO IS AN INSURED**:

- e. Any person or organization that, with your express or implied consent, either

uses or is responsible for the use of a watercraft that you do not own that is:

- (1) 75 feet long or less; and
- (2) Not being used to carry any person or property for a charge;

B. WHO IS AN INSURED – UNNAMED SUBSIDIARIES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any of your subsidiaries, other than a partnership or joint venture, that is not shown as a Named Insured in the Declarations is a Named Insured if:

- a. You are the sole owner of, or maintain an ownership interest of more than 50% in, such subsidiary on the first day of the policy period; and

COMMERCIAL GENERAL LIABILITY

- b. Such subsidiary is not an insured under similar other insurance.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal and advertising injury" caused by an offense committed:

- a. Before you maintained an ownership interest of more than 50% in such subsidiary; or
- b. After the date, if any, during the policy period that you no longer maintain an ownership interest of more than 50% in such subsidiary.

For purposes of Paragraph 1. of Section II – Who Is An Insured, each such subsidiary will be deemed to be designated in the Declarations as:

- a. A limited liability company;
 - b. An organization other than a partnership, joint venture or limited liability company; or
 - c. A trust;
- as indicated in its name or the documents that govern its structure.

C. WHO IS AN INSURED – RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES

The following is added to Paragraph 2. of SECTION II – WHO IS AN INSURED:

Any person who is your retired partner, member, director or "employee" that is performing services for you under your direct supervision, but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, no such retired partner, member, director or "employee" is an insured for:

(1) "Bodily injury":

- (a) To you, to your current partners or members (if you are a partnership or joint venture), to your current members (if you are a limited liability company) or to your current directors;
- (b) To the spouse, child, parent, brother or sister of that current partner, member or director as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide first aid or "Good Samaritan services" by any of your retired partners, members, directors or "employees", other than a doctor. Any such retired partners, members, directors or "employees" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

(2) "Personal injury":

- (a) To you, to your current or retired partners or members (if you are a partnership or joint venture), to your current or retired members (if you are a limited liability company), to your other current or retired directors or "employees" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that current or retired partner, member, director, "employee" or "volunteer worker" as a consequence of Paragraph (2)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (2)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

(3) "Property damage" to property:

- (a) Owned, occupied or used by; or
 - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;
- you, any of your retired partners, members or directors, your current or retired "employees" or "volunteer workers", any current partner or member (if you are a partnership or joint venture), or any current member (if you are a limited liability company) or current director.

D. WHO IS AN INSURED – EMPLOYEES AND VOLUNTEER WORKERS – BODILY INJURY TO CO-EMPLOYEES, CO-VOLUNTEER WORKERS AND RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES

The following is added to Paragraph 2.a.(1) of SECTION II – WHO IS AN INSURED:

Paragraphs (1)(a), (b) and (c) above do not apply to "bodily injury" to a current or retired co-"employee" while in the course of the co-"employee's" employment by you or performing duties related to the conduct of your business, or to "bodily injury" to your other "volunteer workers" or retired partners, members or directors while performing duties related to the conduct of your business.

E. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED LIMITED LIABILITY COMPANIES

The following replaces Paragraph 3. of SECTION II – WHO IS AN INSURED:

3. Any organization you newly acquire or form, other than a partnership or joint venture, and of which you are the sole owner or in which you maintain an ownership interest of more than 50%, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

a. Coverage under this provision is afforded only:

(1) Until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, if you do not report such organization in writing to us within 180 days after you acquire or form it; or

(2) Until the end of the policy period, when that date is later than 180 days after you acquire or form such organization, if you report such organization in writing to us within 180 days after you acquire or form it;

b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

For the purposes of Paragraph 1. of Section II – Who Is An Insured, each such

organization will be deemed to be designated in the Declarations as:

- a. A limited liability company;
 - b. An organization other than a partnership, joint venture or limited liability company; or
 - c. A trust;
- as indicated in its name or the documents that govern its structure.

F. BLANKET ADDITIONAL INSURED – CONTROLLING INTEREST

1. The following is added to SECTION II – WHO IS AN INSURED:

Any person or organization that has financial control of you is an insured with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" that arises out of:

- a. Such financial control; or
- b. Such person's or organization's ownership, maintenance or use of premises leased to or occupied by you.

The insurance provided to such person or organization does not apply to structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

2. The following is added to Paragraph 4. of SECTION II – WHO IS AN INSURED:

This paragraph does not apply to any premises owner, manager or lessor that has financial control of you.

G. BLANKET ADDITIONAL INSURED – MORTGAGEES, ASSIGNEES, SUCCESSORS OR RECEIVERS

The following is added to SECTION II – WHO IS AN INSURED:

Any person or organization that is a mortgagee, assignee, successor or receiver and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to its liability as mortgagee, assignee, successor or receiver for "bodily injury", "property damage" or "personal and advertising injury" that:

- a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed,

COMMERCIAL GENERAL LIABILITY

subsequent to the signing of that contract or agreement; and

- b. Arises out of the ownership, maintenance or use of the premises for which that mortgagee, assignee, successor or receiver is required under that contract or agreement to be included as an additional insured on this Coverage Part.

The insurance provided to such mortgagee, assignee, successor or receiver is subject to the following provisions:

- a. The limits of insurance provided to such mortgagee, assignee, successor or receiver will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
- b. The insurance provided to such person or organization does not apply to:
 - (1) Any "bodily injury" or "property damage" that occurs, or any "personal and advertising injury" caused by an offense that is committed, after such contract or agreement is no longer in effect; or
 - (2) Any "bodily injury", "property damage" or "personal and advertising injury" arising out of any structural alterations, new construction or demolition operations performed by or on behalf of such mortgagee, assignee, successor or receiver.

H. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO PREMISES

The following is added to SECTION II – WHO IS AN INSURED:

Any governmental entity that has issued a permit or authorization with respect to premises owned or occupied by, or rented or loaned to, you and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the existence, ownership, use, maintenance, repair, construction, erection or removal of any of the following for which that governmental entity has issued such permit or authorization: advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away

openings, sidewalk vaults, elevators, street banners or decorations.

I. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO OPERATIONS

The following is added to SECTION II – WHO IS AN INSURED:

Any governmental entity that has issued a permit or authorization with respect to operations performed by you or on your behalf and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of such operations.

The insurance provided to such governmental entity does not apply to:

- a. Any "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the governmental entity; or
- b. Any "bodily injury" or "property damage" included in the "products-completed operations hazard".

J. INCIDENTAL MEDICAL MALPRACTICE

1. The following replaces Paragraph b. of the definition of "occurrence" in the DEFINITIONS Section:

- b. An act or omission committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to a person, unless you are in the business or occupation of providing professional health care services.

2. The following replaces the last paragraph of Paragraph 2.a.(1) of SECTION II – WHO IS AN INSURED:

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide:

- (a) "Incidental medical services" by any of your "employees" who is a nurse, nurse assistant, emergency medical technician, paramedic, athletic trainer, audiologist, dietician, nutritionist,

occupational therapist or occupational therapy assistant, physical therapist or speech-language pathologist; or

- (b) First aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

- 3. The following replaces the last sentence of Paragraph 5. of **SECTION III – LIMITS OF INSURANCE:**

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

- 4. The following exclusion is added to Paragraph 2., **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

Sale Of Pharmaceuticals

"Bodily injury" or "property damage" arising out of the violation of a penal statute or ordinance relating to the sale of pharmaceuticals committed by, or with the knowledge or consent of the insured.

- 5. The following is added to the **DEFINITIONS** Section:

"Incidental medical services" means:

- a. Medical, surgical, dental, laboratory, x-ray or nursing service or treatment, advice or instruction, or the related furnishing of food or beverages; or
- b. The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances.

- 6. The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

This insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis,

that is available to any of your "employees" for "bodily injury" that arises out of providing or failing to provide "incidental medical services" to any person to the extent not subject to Paragraph 2.a.(1) of Section II – Who Is An Insured.

K. MEDICAL PAYMENTS – INCREASED LIMIT

The following replaces Paragraph 7. of **SECTION III – LIMITS OF INSURANCE:**

- 7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person, and will be the higher of:
 - a. \$10,000; or
 - b. The amount shown in the Declarations of this Coverage Part for Medical Expense Limit.

L. AMENDMENT OF EXCESS INSURANCE CONDITION – PROFESSIONAL LIABILITY

The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis, that is Professional Liability or similar coverage, to the extent the loss is not subject to the professional services exclusion of Coverage A or Coverage B.

M. BLANKET WAIVER OF SUBROGATION – WHEN REQUIRED BY WRITTEN CONTRACT OR AGREEMENT

The following is added to Paragraph 8., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

If the insured has agreed in a written contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

- a. "Bodily injury" or "property damage" that occurs; or
- b. "Personal and advertising injury" caused by an offense that is committed; subsequent to the signing of that contract or agreement.

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N. CONTRACTUAL LIABILITY – RAILROADS

1. The following replaces Paragraph c. of the definition of "insured contract" in the **DEFINITIONS** Section:
 - c. Any easement or license agreement;
2. Paragraph f.(1) of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

TRAVELERS 
ONE TOWER SQUARE
HARTFORD CT 06183

WORKERS COMPENSATION
AND
EMPLOYERS LIABILITY POLICY

ENDORSEMENT WC 00 03 13 (00) - 001

POLICY NUMBER: UB-9H987803-21-43-E

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

SCHEDULE

DESIGNATED PERSON:

DESIGNATED ORGANIZATION:

ANY PERSON OR ORGANIZATION FOR WHICH THE INSURED HAS AGREED
BY WRITTEN CONTRACT EXECUTED PRIOR TO LOSS TO FURNISH THIS
WAIVER.

Any person or organization for which the employer has agreed by written contract, executed prior to loss, may execute a waiver of subrogation. However, for purposes of work performed by the employer in Missouri, this waiver of subrogation does not apply to any construction group of classifications as designated by the waiver of right to recover from others (subrogation) rule in our manual.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

XTEND ENDORSEMENT FOR ARCHITECTS, ENGINEERS AND SURVEYORS

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|--|--|
| <ul style="list-style-type: none"> A. Non-Owned Watercraft – 75 Feet Long Or Less B. Who Is An Insured – Unnamed Subsidiaries C. Who Is An Insured – Retired Partners, Members, Directors And Employees D. Who Is An Insured – Employees And Volunteer Workers – Bodily Injury To Co-Employees, Co-Volunteer Workers And Retired Partners, Members, Directors And Employees E. Who Is An Insured – Newly Acquired Or Formed Limited Liability Companies F. Blanket Additional Insured – Controlling Interest G. Blanket Additional Insured – Mortgagees, Assignees, Successors Or Receivers | <ul style="list-style-type: none"> H. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Premises I. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Operations J. Incidental Medical Malpractice K. Medical Payments – Increased Limit L. Amendment Of Excess Insurance Condition – Professional Liability M. Blanket Waiver Of Subrogation – When Required By Written Contract Or Agreement N. Contractual Liability – Railroads |
|--|--|

PROVISIONS

A. NON-OWNED WATERCRAFT – 75 FEET LONG OR LESS

1. The following replaces Paragraph (2) of Exclusion g., Aircraft, Auto Or Watercraft, in Paragraph 2. of SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY:

- (2) A watercraft you do not own that is:
 - (a) 75 feet long or less; and
 - (b) Not being used to carry any person or property for a charge;

2. The following replaces Paragraph 2.e. of SECTION II – WHO IS AN INSURED:

- e. Any person or organization that, with your express or implied consent, either

uses or is responsible for the use of a watercraft that you do not own that is:

- (1) 75 feet long or less; and
- (2) Not being used to carry any person or property for a charge;

B. WHO IS AN INSURED – UNNAMED SUBSIDIARIES

The following is added to SECTION II – WHO IS AN INSURED:

Any of your subsidiaries, other than a partnership or joint venture, that is not shown as a Named Insured in the Declarations is a Named Insured if:

- a. You are the sole owner of, or maintain an ownership interest of more than 50% in, such subsidiary on the first day of the policy period; and

COMMERCIAL GENERAL LIABILITY

- b. Such subsidiary is not an insured under similar other insurance.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal and advertising injury" caused by an offense committed:

- a. Before you maintained an ownership interest of more than 50% in such subsidiary; or
- b. After the date, if any, during the policy period that you no longer maintain an ownership interest of more than 50% in such subsidiary.

For purposes of Paragraph 1. of Section II – Who Is An Insured, each such subsidiary will be deemed to be designated in the Declarations as:

- a. A limited liability company;
- b. An organization other than a partnership, joint venture or limited liability company; or
- c. A trust;

as indicated in its name or the documents that govern its structure.

C. WHO IS AN INSURED – RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES

The following is added to Paragraph 2. of SECTION II – WHO IS AN INSURED:

Any person who is your retired partner, member, director or "employee" that is performing services for you under your direct supervision, but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, no such retired partner, member, director or "employee" is an insured for:

(1) "Bodily injury":

- (a) To you, to your current partners or members (if you are a partnership or joint venture), to your current members (if you are a limited liability company) or to your current directors;
- (b) To the spouse, child, parent, brother or sister of that current partner, member or director as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide first aid or "Good Samaritan services" by any of your retired partners, members, directors or "employees", other than a doctor. Any such retired partners, members, directors or "employees" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

(2) "Personal injury":

- (a) To you, to your current or retired partners or members (if you are a partnership or joint venture), to your current or retired members (if you are a limited liability company), to your other current or retired directors or "employees" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that current or retired partner, member, director, "employee" or "volunteer worker" as a consequence of Paragraph (2)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (2)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

(3) "Property damage" to property:

- (a) Owned, occupied or used by; or
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your retired partners, members or directors, your current or retired "employees" or "volunteer workers", any current partner or member (if you are a partnership or joint venture), or any current member (if you are a limited liability company) or current director.

D. WHO IS AN INSURED – EMPLOYEES AND VOLUNTEER WORKERS – BODILY INJURY TO CO-EMPLOYEES, CO-VOLUNTEER WORKERS AND RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES

The following is added to Paragraph 2.a.(1) of SECTION II – WHO IS AN INSURED:

Paragraphs (1)(a), (b) and (c) above do not apply to "bodily injury" to a current or retired co-"employee" while in the course of the co-"employee's" employment by you or performing duties related to the conduct of your business, or to "bodily injury" to your other "volunteer workers" or retired partners, members or directors while performing duties related to the conduct of your business.

E. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED LIMITED LIABILITY COMPANIES

The following replaces Paragraph 3. of SECTION II – WHO IS AN INSURED:

3. Any organization you newly acquire or form, other than a partnership or joint venture, and of which you are the sole owner or in which you maintain an ownership interest of more than 50%, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

a. Coverage under this provision is afforded only:

(1) Until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, if you do not report such organization in writing to us within 180 days after you acquire or form it; or

(2) Until the end of the policy period, when that date is later than 180 days after you acquire or form such organization, if you report such organization in writing to us within 180 days after you acquire or form it;

b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

For the purposes of Paragraph 1. of Section II – Who Is An Insured, each such

organization will be deemed to be designated in the Declarations as:

- a. A limited liability company;
- b. An organization other than a partnership, joint venture or limited liability company; or
- c. A trust;

as indicated in its name or the documents that govern its structure.

F. BLANKET ADDITIONAL INSURED – CONTROLLING INTEREST

1. The following is added to SECTION II – WHO IS AN INSURED:

Any person or organization that has financial control of you is an insured with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" that arises out of:

- a. Such financial control; or
- b. Such person's or organization's ownership, maintenance or use of premises leased to or occupied by you.

The insurance provided to such person or organization does not apply to structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

2. The following is added to Paragraph 4. of SECTION II – WHO IS AN INSURED:

This paragraph does not apply to any premises owner, manager or lessor that has financial control of you.

G. BLANKET ADDITIONAL INSURED – MORTGAGEES, ASSIGNEES, SUCCESSORS OR RECEIVERS

The following is added to SECTION II – WHO IS AN INSURED:

Any person or organization that is a mortgagee, assignee, successor or receiver and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to its liability as mortgagee, assignee, successor or receiver for "bodily injury", "property damage" or "personal and advertising injury" that:

- a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed,

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subsequent to the signing of that contract or agreement; and

- b. Arises out of the ownership, maintenance or use of the premises for which that mortgagee, assignee, successor or receiver is required under that contract or agreement to be included as an additional insured on this Coverage Part.

The insurance provided to such mortgagee, assignee, successor or receiver is subject to the following provisions:

- a. The limits of insurance provided to such mortgagee, assignee, successor or receiver will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
- b. The insurance provided to such person or organization does not apply to:
 - (1) Any "bodily injury" or "property damage" that occurs, or any "personal and advertising injury" caused by an offense that is committed, after such contract or agreement is no longer in effect; or
 - (2) Any "bodily injury", "property damage" or "personal and advertising injury" arising out of any structural alterations, new construction or demolition operations performed by or on behalf of such mortgagee, assignee, successor or receiver.

H. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO PREMISES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any governmental entity that has issued a permit or authorization with respect to premises owned or occupied by, or rented or loaned to, you and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the existence, ownership, use, maintenance, repair, construction, erection or removal of any of the following for which that governmental entity has issued such permit or authorization: advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away

openings, sidewalk vaults, elevators, street banners or decorations.

I. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO OPERATIONS

The following is added to **SECTION II – WHO IS AN INSURED**:

Any governmental entity that has issued a permit or authorization with respect to operations performed by you or on your behalf and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of such operations.

The insurance provided to such governmental entity does not apply to:

- a. Any "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the governmental entity; or
- b. Any "bodily injury" or "property damage" included in the "products-completed operations hazard".

J. INCIDENTAL MEDICAL MALPRACTICE

1. The following replaces Paragraph **b.** of the definition of "occurrence" in the **DEFINITIONS** Section:

- b. An act or omission committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to a person, unless you are in the business or occupation of providing professional health care services.

2. The following replaces the last paragraph of Paragraph **2.a.(1)** of **SECTION II – WHO IS AN INSURED**:

Unless you are in the business or occupation of providing professional health care services, Paragraphs **(1)(a), (b), (c)** and **(d)** above do not apply to "bodily injury" arising out of providing or failing to provide:

- (a) "Incidental medical services" by any of your "employees" who is a nurse, nurse assistant, emergency medical technician, paramedic, athletic trainer, audiologist, dietician, nutritionist,

occupational therapist or occupational therapy assistant, physical therapist or speech-language pathologist; or

- (b) First aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

- 3. The following replaces the last sentence of Paragraph 5. of **SECTION III – LIMITS OF INSURANCE:**

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

- 4. The following exclusion is added to Paragraph 2., **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

Sale Of Pharmaceuticals

"Bodily injury" or "property damage" arising out of the violation of a penal statute or ordinance relating to the sale of pharmaceuticals committed by, or with the knowledge or consent of the insured.

- 5. The following is added to the **DEFINITIONS** Section:

"Incidental medical services" means:

- a. Medical, surgical, dental, laboratory, x-ray or nursing service or treatment, advice or instruction, or the related furnishing of food or beverages; or
- b. The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances.

- 6. The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

This insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis,

that is available to any of your "employees" for "bodily injury" that arises out of providing or failing to provide "incidental medical services" to any person to the extent not subject to Paragraph 2.a.(1) of Section II – Who Is An Insured.

K. MEDICAL PAYMENTS – INCREASED LIMIT

The following replaces Paragraph 7. of **SECTION III – LIMITS OF INSURANCE:**

- 7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person, and will be the higher of:

- a. \$10,000; or
- b. The amount shown in the Declarations of this Coverage Part for Medical Expense Limit.

L. AMENDMENT OF EXCESS INSURANCE CONDITION – PROFESSIONAL LIABILITY

The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis, that is Professional Liability or similar coverage, to the extent the loss is not subject to the professional services exclusion of Coverage A or Coverage B.

M. BLANKET WAIVER OF SUBROGATION – WHEN REQUIRED BY WRITTEN CONTRACT OR AGREEMENT

The following is added to Paragraph 8., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

If the insured has agreed in a written contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

- a. "Bodily injury" or "property damage" that occurs; or
- b. "Personal and advertising injury" caused by an offense that is committed;

subsequent to the signing of that contract or agreement.

COMMERCIAL GENERAL LIABILITY

N. CONTRACTUAL LIABILITY – RAILROADS

1. The following replaces Paragraph **c.** of the definition of "insured contract" in the **DEFINITIONS** Section:
 - c.** Any easement or license agreement;
2. Paragraph **f.(1)** of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED ENTITY - NOTICE OF CANCELLATION PROVIDED BY US
(IL T4 05 03 11)

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:
ALL COVERAGE PARTS INCLUDED IN THIS POLICY

CONTINUATION OF FORM IL T4 05, PERSON OR ORGANIZATION:

ANY PERSON OR ORGANIZATION TO WHOM YOU HAVE AGREED IN A WRITTEN CONTRACT THAT
NOTICE OF CANCELLATION OF THIS POLICY WILL BE GIVEN, BUT ONLY IF:

1. YOU SEND US A WRITTEN REQUEST TO PROVIDE SUCH NOTICE, INCLUDING THE
NAME AND ADDRESS OF SUCH PERSON OR ORGANIZATION, AFTER THE FIRST NAMED
INSURED RECEIVES NOTICE FROM US OF THE CANCELLATION OF THIS POLICY; AND
2. WE RECEIVE SUCH WRITTEN REQUEST AT LEAST 14 DAYS BEFORE THE BEGINNING
OF THE APPLICABLE NUMBER OF DAYS SHOWN IN THIS SCHEDULE

ADDRESS:

THE ADDRESS FOR THAT PERSON OR ORGANIZATION IN SUCH WRITTEN REQUEST FROM YOU
TO US.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**NOTICE OF CANCELLATION, NON-RENEWAL OR REDUCTION-IN-LIMITS
ENDORSEMENT**

Named Insured: Olsson Inc

Policy Number: HUN00059-00

Endorsement Number: 6

Effective Date of Endorsement: January 1, 2021, effective 12:01 a.m.

Company: QBE Specialty Insurance Company

This endorsement modifies insurance provided under the following:

ARCHITECTS, ENGINEERS & DESIGN PROFESSIONALS PROFESSIONAL LIABILITY INSURANCE
POLICY

It is hereby agreed that **Section K. CANCELLATION AND NON-RENEWAL**, is amended to add the following:

- If the **Named Insured** has agreed in a written contract with its client to provide such client with notice of cancellation or non-renewal of this Policy, or notice of a reduction in the **Limits of Liability** of this Policy, by endorsement during the **Policy Period**, the **Company** will provide such notice of cancellation, non-renewal or reduction in **Limit of Liability** to the client as set forth herein.

Within ten (10) business days of the **Company's** request, the **Named Insured** will deliver to the **Company**, or cause to be delivered by the broker or agent of record, a list acceptable to the **Company** containing the names and addresses of all entities entitled to receive notice. If the list is not provided to the **Company** within such time period, the **Company** will not provide notification.

The **Company** will assume that the list provided to the **Company** by the **Named Insured** or the broker is a complete and accurate list of certificate holders. Only those persons or entities listed on the schedule will receive notification. The **Company** will keep no other record of any certificate holders in the **Company's** file. Such notice will be delivered to such client at the address recorded by certificate on file with the broker or agent of record and provided to the **Company**.

With respect to cancellation or non-renewal of this Policy, the **Company** will provide the **Named Insured's** client with the greater of:

- (1) thirty (30) days' notice; or
- (2) the number of days' notice set forth in the applicable State Provisions endorsement attached; to this Policy in accordance with the Cancellation/Non-Renewal condition of the Policy.

With respect to a reduction in the **Limits of Liability** of this Policy by endorsement during the **policy term**, the **Company** will provide the **Named Insured's** client with the lesser of:

- (1) sixty (60) days' notice; or
- (2) the number of days' notice required in the **Named Insured's** contract with such client.

The **Company's** failure to provide such notification will not extend the Policy cancellation date, negate cancellation or non-renewal of the Policy, invalidate any endorsement to the Policy or be cause for legal action against the **Company**.

All other terms and conditions of the Policy remain unchanged.